

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 4:08CR3019
)	
Plaintiff,)	MOTION TO SUPPRESS AND
)	REQUEST FOR EVIDENTIARY
v.)	HEARING AND ORAL ARGUMENT
)	
DOMINICK C. DIGIORGIO,)	
)	
Defendant.)	

Defendant Dominick C. Digiorgio, by and through Assistant Federal Public Defender Michael J. Hansen, hereby moves this Court for an order suppressing all evidence and statements obtained as a result of the stop and search of the silver 2008 Chevrolet Impala driven by him on January 31, 2008. In furtherance of said motion, defendant states as follows:

1. On January 31, 2008, Dominick Digiorgio was operating a rented silver 2008 Chevrolet Impala in Buffalo Kimball County, Nebraska when he was stopped by Trooper Hazard of the Nebraska State Patrol for exceeding the posted speed limit on eastbound Interstate 80. Defendant's brother, Christopher Digiorgio, was a passenger in the vehicle.
2. Trooper Hazard claims that Dominick Digiorgio gave consent to search the vehicle and that said consent was voluntary.
3. Dominick Digiorgio asserts that the stop of the vehicle was conducted without any reasonable or articulable suspicion of criminal activity. Defendant further asserts that the stop of the 2008 Impala violated his rights under the Fourth Amendment to the United States Constitution.

4. Dominick Digiorgio argues that the search of the motor vehicle and any statements he made are a result of the illegal stop and should be suppressed as “tainted fruit” pursuant to Wong Sun v. United States, 371 U.S. 471 (1963).

5. Counsel requests an evidentiary hearing and estimates that approximately two hours will be needed for this hearing. Defendant further requests oral argument on this motion. He submits a memorandum brief in support of this motion.

WHEREFORE, based upon the above showing, defendant requests that all evidence obtained following the illegal stop and search of the vehicle he was driving on January 20, 2006, be suppressed as evidence at his trial.

Dated this 26th day of March, 2008.

DOMINICK DIGIORGIO, Defendant,

By: /s/ Michael J. Hansen

Michael J. Hansen
Assistant Federal Public Defender
112 Federal Building
100 Centennial Mall North
Lincoln, Nebraska 68508
(402) 437-5871
Attorney for Defendant

CERTIFICATE OF SERVICE

Assistant Federal Public Defender Michael J. Hansen hereby certifies that the foregoing document was filed with the Clerk of the District Court using the CM/ECF system which sent notification of such filing to AUSA Kim Bunjer and John S. Berry, Jr., counsel for Christopher Digiorgio, on this 26th day of March, 2008.

/s/ Michael J. Hansen
Michael J. Hansen